



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1994

Mr. Don J. Rorschach
City Attorney
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR94-093

Dear Mr. Rorschach:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23542.

The City of Irving (the "city") received an open records request for "all notes and records that were taken in the meeting between Texas Stadium and the City of Irving." You have submitted to this office for review copies of the requested records that you contend are excepted from required public disclosure because they constitute either "attorney work product" or "personal notes."

You contend the records labeled "A" constitute work product and thus come under the protection of sections 552.101 and 552.111 of the Government Code. In the context of open records requests, the work product doctrine merely represents one aspect of section 552.103 of the Open Records Act: attorney work product may be withheld only if it "relates" to pending or reasonably anticipated litigation to which the governmental entity is or may be a party. *See* Open Records Decision No. 574 (1990) (copy enclosed). In this instance, you have made no showing that the requested notes in any way relate to pending or reasonably anticipated litigation. Consequently, the city may not withhold the notes labeled "A" as work product. This information must be released.

¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

The remaining document, which you have labeled "B," contains handwritten notes which you describe as being

made by a member of the City's administrative staff for his personal use to later jog his memory These notes were for the sole use by the employee to use in refreshing his memory at some future date. The City does not require these notes be made nor does the City control these personal notes.

Section 552.021(a) of the Government Code provides that information that is "collected, assembled, or maintained" by a governmental body "in connection with the transaction of official business" is public information. It is clear from a review of the notes that they were created and maintained by a city employee in connection with his official duties and as such cannot be deemed to be outside the scope of the Open Records Act. *See generally* Open Records Decision No. 450 (1986) at 3-4. Because you have raised none of the exceptions to public disclosure listed in chapter 552 subchapter C with regard to this information, the city must release these notes to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Open Government Section

KHG/RWP/rho

Ref.: ID# 23542
ID# 23543

Enclosures: Open Records Decision No. 574
Submitted documents

cc: Mr. Mathew M. Lakota
820 S. MacArthur Boulevard, #105-300
Coppell, Texas 75019
(w/o enclosures)